

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JANESSA BOINTY,

Plaintiff,

v.

**STATE OF OKLAHOMA, *ex rel*,
OKLA. STATE DEPARTMENT OF
EDUCATION, and**

**RYAN WALTERS, *in his official
capacity as Superintendent of Public
Instruction, and his individual capacity,***

Defendants.

Case No. CIV-23-1002-F

**PLAINTIFF’S MOTION TO STRIKE AMENDED ANSWER AND
COUNTERCLAIM OF THE STATE OF OKLAHOMA AND RYAN
WALTERS IN HIS OFFICIAL CAPACITY**

COMES NOW THE PLAINTIFF, Janessa Bointy, and respectfully requests this Court strike the Amended Answer and Counterclaim of the State of Oklahoma, *ex rel*, Oklahoma State Department of Education and Ryan Walters in his official capacity. In support of this request, Plaintiff shows as follows:

1. On July 3, 2024, this Court entered a scheduling order including deadlines governing these proceedings. Dkt. 25.
2. At Para. 2, Dkt. 25, this Court set a deadline of August 15, 2024, to file motions to amend pleadings.
3. On August 15, 2024, Defendants the State of Oklahoma and Ryan Walters in his individual capacity filed an Amended Answer and Counterclaim. Dkt. 32.

4. Such Answer and Counterclaim, Dkt. 32, was not authorized under Fed.R.Civ.P. 15(a), which requires that pleadings be amended within twenty-one (21) days of service, with this Court's leave, or with opposing party's consent.
5. Defendants filed their original Answer on November 16, 2023, significantly longer than twenty-one (21) days ago.
6. Below-signed counsel received no request from these Defendants to amend their answer.¹
7. No motion was filed by Defendants seeking to amend their Answer, as required both by rule and as ordered by this honorable Court.
8. Plaintiff objects to Defendants' amendments for multiple reasons, including but not limited to:
 - a. Defendants' allegations fail to state a claim for which relief can be granted under Fed.R.Civ.P. 12;
 - b. Defendants' allegations are not sufficiently factually pled under the standards of *Twombly / Iqbal*;
 - c. Defendants' claims are retaliatory in nature and violate Oklahoma's Anti-SLAPP provisions, 12 O.S. § 1430, *et seq.* Indeed, such counterclaims are further evidence of Defendants' intent to deprive Ms. Bointy of her Constitutionally-protected free speech rights.

¹ Defendant Walters' request to file an Answer out of time was made in his individual capacity and was not from Ms. Smith, who signed Dkt. 32.

WHEREFORE, Plaintiff respectfully requests this Court strike Defendants' Amended Answer and Counterclaim, Dkt. 32.

RESPECTFULLY SUBMITTED THIS 15th DAY OF AUGUST, 2024.

s/ Leah M. Roper

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CERTIFICATE OF SERVICE

This is to certify that on August 15, 2024, a true and correct copy of the foregoing instrument was electronically transmitted to the Clerk of Court using the ECF System for filing and transmittal of Notice of Electronic Filing to the following ECF registrants:

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s/ Leah M. Roper